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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 20, 2003

APPLICATION OF

THE CITY OF MARTINSVILLE

CASE NO. PUC-2002-00207

For a certificate of public
convenience and necessity to
provide local exchange
telecommunications services

FINAL ORDER

On October 21, 2002, the City of Martinsville ("Martinsville") filed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services in the City of Martinsville and the County of Henry.

By Order dated November 14, 2002, the Commission issued an Order for Notice and Comment, which directed Martinsville to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. The Commission received a written notice of participation from Central Telephone Company of Virginia ("Sprint").¹ Sprint filed comments on January 3, 2003.

¹ Additionally, the Virginia Cable Telecommunications Association filed a request to be placed on the official service list in the proceeding.

Sprint requests in its comments, based upon ambiguity it perceives in the application as to the territory sought, that any certificate issued in this case be limited to any locality in which Martinsville had electric distribution system facilities as of March 1, 2002, consistent with § 15.2-2160 of the Code of Virginia. Sprint recognizes in its comments that Martinsville satisfies this requirement in the City of Martinsville and the County of Henry. Sprint further requests in its comments that since no initial rates are proposed that Martinsville be ordered to provide Sprint a copy of any proposed initial rates filed with the Commission and that Sprint be allowed to propound discovery with respect to such future initial rate filing by Martinsville. Finally, Sprint's comments advise the Commission that Sprint may request a hearing upon such future initial rate filing by Martinsville.² No requests for a hearing on the application of Martinsville were received.

On December 18, 2002, Martinsville filed proof of publication and proof of service as required by the Order for Notice and Comment. On January 31, 2003, the Staff filed its Report. Martinsville filed its Response to the Staff Report and to Sprint's comments on February 7, 2003. Martinsville

² Sprint informs the Commission in its comments that the purpose of any hearing request it would make is to ensure Martinsville's compliance with the various rate requirements of § 56-265.4:4(B) applicable to certificated localities.

indicated in its Response that it had no objection to the recommendations contained in the Staff Report. Martinsville responded to Sprint's comments by denying any ambiguity in its application and affirming that the localities sought to be certificated are the City of Martinsville and the County of Henry. Martinsville further states that the requirement of a hearing on any proposed initial rates need not be determined in this Order.

In its January 31, 2003, Report, the Staff finds that Martinsville's application is in compliance with the Rules Governing the Offering of Competitive Local Exchange Telecommunications Service ("Local Rules").³ Based upon its review of Martinsville's application, the Staff determined that it would be appropriate to grant Martinsville a certificate to provide local exchange telecommunications services, as requested, subject to the following conditions: (1) should Martinsville collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the City of Martinsville, and shall notify the Division of Economics and

³ The Local Rules were adopted in Case No. PUC-1995-00018 by Order dated December 13, 1995, and are codified at 20 VAC 5-400-180.

Finance of the escrow arrangement at its inception and any subsequent change (any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary); and (2) at such time as voice services are initiated by Martinsville, it shall comply with all requirements of § C (Conditions for certification) of the Commission's Local Rules.

NOW THE COMMISSION, having considered the pleadings and the applicable law, finds that Martinsville should be granted a certificate to provide local exchange telecommunications services. We note that Martinsville, once it plans to offer local exchange telecommunications services, must file tariffs with the Commission's Division of Communications pursuant to the Local Rules. Martinsville is directed to serve a copy of its initial tariffs on the service list for this case. We need not rule on whether a hearing on Martinsville's rates is required at this time as there is no request for a hearing; as Sprint has indicated in its comments, it may make its request once Martinsville files with the Commission proposed initial rates for its local exchange telecommunications services.

The Commission adopts the recommendations of the Staff Report. We fully expect Martinsville, or any other local exchange carrier that currently has or will obtain a certificate, to comply with the Code of Virginia and this

Commission's existing Local Rules and any subsequently adopted rules.⁴

The Staff Report indicates that Martinsville agrees to meet all applicable conditions for certification identified in § C of the Local Rules. Martinsville has also agreed to comply with all rules and regulations of the Commission and laws of the Commonwealth of Virginia. Martinsville intends to comply with the applicable and duly promulgated safeguards or requirements mandated by House Bill 1021 enacted by the 2002 Session of the Virginia General Assembly, as set out in Exhibit G to the application.⁵

Accordingly, IT IS ORDERED THAT:

(1) Martinsville is hereby granted a certificate of public convenience and necessity, No. T-606, to provide local exchange telecommunications services in the City of Martinsville and the County of Henry. This certificate is subject to the restrictions set forth in the Rules Governing the Offering of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

⁴ On October 15, 2002, the Commission issued an Order for Notice and Comment and/or Requests for Hearing Proposed Rules, Case No. PUC-2002-00115. The proposed Rules include new regulatory requirements pursuant to § 56-265.4:4 and § 15.2-2160 of the Code of Virginia.

⁵ See Affidavit of Earl B. Reynolds, Jr. (City Manager of Martinsville), which is also discussed at page 5 of Staff Report.

(2) Should Martinsville collect customer deposits, it shall, prior to collecting any deposits, establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association, savings bank, or credit union that is unaffiliated with the City of Martinsville and shall notify the Division of Economics and Finance of the escrow arrangement at its inception and any subsequent change to the arrangement. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or Commission determines it is no longer necessary.

(3) At such time as voice services are initiated by Martinsville, it shall comply with all requirements of § C of the Local Rules (Conditions for certification).

(4) Martinsville shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations before it begins offering local exchange telecommunications services. Martinsville shall serve upon the service list for this case a copy of those initial tariffs.

(5) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.